

From: [Duncan, Dan](#)
To: [Moore, Gary](#)
Cc: [Terry Andrews](#)
Subject: Re: FW: Disposal Fee Waiver
Date: Thursday, October 02, 2014 2:35:55 PM

Hello Gary, yes, I concur.

I don't have the names of the last personnel that conducted a hazardous waste fee inspection, because they don't come here that often, but I believe they work in the Financial Division at TCEQ.

Nearly all of our TCEQ inspections originate out of the TCEQ Region 10 office in Beaumont and I am very familiar with most of those inspectors, but the haz waste fee inspections originate out of TCEQ headquarters in Austin.

In the past, they've based their standards on the regulations, not on language in the Act.

On 2 October 2014 12:31, Moore, Gary <Moore.Gary@epa.gov> wrote:

Dan:

I will see if I can get Terry Andrews to run this down unless you have the name and number of the TCEQ inspector that looks at the fees during the inspection.

I am not sure from a State perspective but from a Federal perspective the Act takes prescedent over the regulation that they are drawn from. Anyway, this is adminsitratve stuff that I am sure can get handled when we get to the right people.

Thanks

Gary Moore

Federal On-Scene Coordinator

U.S. EPA Region 6

214-789-1627 cell

214-665-6609 office

moore.gary@epa.gov

From: Duncan, Dan <dan.duncan@veolia.com>

Sent: Thursday, October 2, 2014 11:52 AM

To: Moore, Gary

Cc: Terry Andrews

Subject: Re: FW: Disposal Fee Waiver

Yes, the language appears in the Act, but was not adopted in the regulations. Since it was not included in the regulations, I am not clear that it remains valid. On a periodic

basis, we are inspected by TCEQ specific to hazardous waste fee payments. It would be helpful if someone in that group could bless that exception.

On 2 October 2014 11:41, Moore, Gary <Moore.Gary@epa.gov> wrote:

Dan:

I am not sure I understand. I got this from TCEQ, Terry Andrews, in the Remediation Division out of Houston, TX. Here is the information:

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER

CHAPTER 361. SOLID WASTE DISPOSAL ACT

SUBCHAPTER A. GENERAL PROVISIONS

361.136(i)

It would appear that we are exempt and that is what TCEQ Rep indicated as well.

Thanks,

Gary Moore

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From: Duncan, Dan <dan.duncan@veolia.com>

Sent: Thursday, October 2, 2014 10:14 AM

To: Michaelis, David

Cc: Sandy Kerby; Moore, Gary

Subject: Re: FW: Disposal Fee Waiver

David,

Please see TCEQ ind and haz waste fee regulations below. I highlighted the relevant paragraph which partially corresponds to the note from EPA. For whatever reason, the fee exception for EPA subsidized removals is not included in the TCEQ regulations. I copied Gary Moore with EPA on this message and maybe he can find

out from his TCEQ contact why the EPA exception was omitted from the regulations.

[≤](#)

Texas Administrative Code

[Next Rule>>](#)

[TITLE 30](#)

ENVIRONMENTAL QUALITY

[PART 1](#)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

[CHAPTER 335](#)

INDUSTRIAL SOLID WASTE AND MUNICIPAL
HAZARDOUS WASTE

[SUBCHAPTER J](#)

HAZARDOUS WASTE GENERATION, FACILITY AND
DISPOSAL FEE SYSTEM

RULE §335.325

**Industrial Solid Waste and Hazardous Waste Management
Fee Assessment**

(a) A fee is hereby assessed on each owner or operator of a waste storage, processing, or disposal facility, except as provided in subsections (b) - (e) of this section. A fee is assessed for hazardous wastes which are stored, processed, disposed, or otherwise managed and for Class 1 industrial wastes which are disposed at a commercial facility. For the purpose of this section, the storage, processing, or disposal of hazardous waste for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope, and Applicability) is not subject to a hazardous waste management fee.

(b) A fee imposed on the owner or operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous wastes which are generated in this state and received from an affiliate or wholly owned subsidiary of the commercial facility, or from a captured facility, shall be the same fee imposed on a noncommercial facility. For the purpose of this section, an affiliate of a commercial hazardous waste facility must have a controlling interest in common with that facility.

(c) The storage, processing, or disposal of industrial solid waste or hazardous wastes generated in a removal or remedial action accomplished through the expenditure of public funds from the hazardous and solid waste remediation fee fund shall be exempt from the assessment of a waste management fee under this section.

(d) A fee shall not be imposed on the owner or operator of a waste storage, processing, or disposal facility for the storage of hazardous wastes if such wastes are stored within the time periods allowed by and in accordance with the provisions of §335.69 of this title (relating to Accumulation Time).

(e) A fee may not be imposed under this section on the operation of a facility permitted under the Water Code, Chapter 26, or the federal National Pollutant Discharge Elimination System program for wastes treated, processed, or disposed of in a wastewater treatment system that discharges into surface waters of the state. For the purpose of this section, the management of a hazardous waste in a surface impoundment which is not exempt from assessment under this subsection will be assessed the fee for processing under subsection (j) of this section.

(f) The waste management fee authorized under this section shall be based on the total weight or volume of a waste except for wastes which are disposed of in an underground injection well, in which case the fee shall be based on the dry weight of the waste, measured in dry weight tons (dwt), as defined in §335.322 of this title (relating to Definitions) and §335.326 of this title (relating to Dry Weight Determination).

(g) The hazardous waste management fee for wastes generated in this state shall not exceed \$40 per ton for wastes which are landfilled.

(h) The operator of a waste storage, processing, or disposal facility receiving industrial solid waste or hazardous waste from out-of-state generators shall be assessed the fee amount required on wastes generated in state plus an additional increment to be established by rule, except as provided in subsection (k) of this section.

(i) For the purposes of subsection (j) of this section, energy recovery means the burning or incineration of a hazardous waste fuel and fuel processing means the handling of a waste fuel, including storage and blending, prior to its disposal by burning.

(j) Except as provided in subsections (k) - (q) of this section, waste management fees shall be assessed according to the following schedule.

(1) Hazardous waste.

[Attached Graphic](#)

(2) Class 1 non-hazardous waste.

[Attached Graphic](#)

(k) For wastes which are generated out-of-state, the fee will be that specified in subsection (j) of this section, except that the fee for the storage, processing, incineration, and disposal of hazardous waste fuels shall be the same for wastes generated out-of-state and in-state.

(l) Except as provided in subsection (m) of this section, only one waste management fee shall be paid for a waste managed at a facility. In any instance where more than one fee could be applied under this section to a specific volume of waste, the higher of the applicable fees will be assessed.

(m) A fee for storage of hazardous waste shall be assessed in addition to any fee for other waste management methods at a facility. No fee shall be assessed under this section for the storage of a hazardous waste for a period of less than 90 days as determined from the date of receipt or generation of the waste (or the effective date of this section). The fee rate specified in the schedule under subsection (j) of this section shall apply to the quantity of waste in any month which has been in storage for more than 90 days or the number for which an extension has been granted under §335.69 of this title.

(n) A facility which receives waste transferred from another facility shall pay any waste management fee applicable under this section and shall not receive credit for any fee applied to the management of the waste at the facility of origin.

(o) The fee rate for incineration of aqueous wastes containing 5.0% or less of total

organic carbon will be 10% of the fee for incineration under the schedule in subsection (j) of this section.

(p) A commercial waste disposal facility receiving solid waste not subject to assessment under this section shall pay any assessment due under Chapter 330, Subchapter P of this title (relating to Fees and Reports). No fee for disposal of a solid waste under Chapter 330, Subchapter P of this title, shall be assessed in addition to a fee for disposal under this section.

(q) An operator of a hazardous waste injection well electing to separately measure inorganic salts in the determination of dry weight under the provisions of §335.326(c) of this title shall pay a fee equivalent to 20% of the fee for underground injection assessed in subsection (j) of this section for the components of the waste stream determined to be inorganic salts.

Source Note: The provisions of this §335.325 adopted to be effective March 19, 1992, 17 TexReg 1737; amended to be effective February 16, 1994, 19 TexReg 802; amended to be effective October 16, 1995, 20 TexReg 7993; amended to be effective November 15, 2001, 26 TexReg 9135

Next Page Previous Page

Top of Form

Bottom of Form

On 1 October 2014 15:23, Michaelis, David <david.michaelis@veolia.com> wrote:
Dan,

See the information below regarding the state disposal fee and the TAC regulatory siting.

Please confirm this as our pricing includes \$16.00 per ton fee, so we will need to remove that once you confirm.

Thanks

David E. Michaelis
Sales Manager
Industrial Business
VEOLIA NORTH AMERICA

tel +1 409 736 4167/ cell +1 281 216 9618
1800 S. Hwy 146 (Business) / Baytown, TX 77520
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----- Forwarded message -----

From: Crawford, Beth <beth.crawford@cbifederalservices.com>
Date: Wed, Oct 1, 2014 at 3:09 PM
Subject: FW: Disposal Fee Waiver
To: "david.michaelis@veolia.com" <david.michaelis@veolia.com>

David,

Good afternoon, when you get a chance I'd like to discuss this with you.

Thanks!



Beth Crawford

Scientist

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Please Note New Phone Number

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From: Moore, Gary [mailto:Moore.Gary@epa.gov]
Sent: Wednesday, October 01, 2014 3:58 PM
To: Crawford, Beth
Subject: Disposal Fee Waiver

Beth:

Please talk with the disposal companies as these fees should be waived. I got this from the TCEQ (Terry Andrews):

Sec. 361.136. INDUSTRIAL SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT FEE. (a) Except as provided by Subsections (e) through

(i), a fee shall be imposed on the owner or operator of a waste

storage, processing, or disposal facility for industrial solid waste

and hazardous waste that is managed on site. This fee is in addition

to any other fee that may be imposed under this chapter.

.....
(i) The storage, processing, or disposal of industrial solid

wastes or hazardous wastes generated in a removal or remedial action accomplished through the expenditure of money from the hazardous and solid waste remediation fee account or generated in a removal or remedial action in this state conducted by the United States Environmental Protection Agency shall be exempt from the assessment of a waste management fee under this section.

Gary Moore

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Sincerely,

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